

By: Representative Maples

To: Transportation

HOUSE BILL NO. 246

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE THAT THOSE PORTIONS OF HIGHWAY ON THE
 3 STATE HIGHWAY SYSTEM THAT, FROM AND AFTER JULY 1, 2000, ARE
 4 RELOCATED, REPLACED OR BYPASSED BY THE MISSISSIPPI DEPARTMENT OF
 5 TRANSPORTATION IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM
 6 SHALL NOT RETURN TO THE JURISDICTION OF THE COUNTY OR MUNICIPALITY
 7 WHERE LOCATED BUT SHALL REMAIN AS PART OF THE STATE HIGHWAY SYSTEM
 8 AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI
 9 TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND
 10 FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** Section 65-1-59, Mississippi Code of 1972, is
 13 amended as follows:

14 65-1-59. (1) It shall be the duty of the Mississippi
 15 Transportation Commission to have the Mississippi Department of
 16 Transportation carry out all contracts and agreements, including
 17 federal-aid projects and agreements under the County Highway Aid
 18 Law of 1946, being Sections 65-11-1 to 65-11-37, heretofore made
 19 or entered into with any county, subject, however, to applicable
 20 rules and regulations of the Federal Highway Administration. It
 21 shall be the duty of the Transportation Commission to continue to
 22 have the Transportation Department maintain all state highways now
 23 under maintenance or hereafter taken over for maintenance, the
 24 purpose of this provision being to preserve the status quo of all
 25 state highways insofar as such highways have been taken over and
 26 control and jurisdiction has been assumed by the * * * commission
 27 and * * * department; however, except as otherwise provided in
 28 this section, if any highway or link of highway is removed from
 29 the state highway system by legislative act or by relocation or
 30 reconstruction, it shall no longer be maintained by or be under
 31 the jurisdiction of the * * * commission or * * * department, but



32 shall be returned to the jurisdiction of the board of supervisors
33 of the county or governing authorities of the municipality through
34 which such road runs. Except as to segments of highways shorter
35 than three (3) miles which have been or which are hereafter
36 replaced through curve straightening or minor realignment, the
37 Transportation Commission shall retain and have the Transportation
38 Department maintain as state highways all portions of U.S.
39 highways that either before or after July 1, 1989, have been or
40 are replaced and constructed as a part of the interstate highway
41 system, or four-lane primary system, or which are replaced and
42 constructed or are designated to be replaced and constructed as
43 part of the four-lane highway system under Section 65-3-97,
44 including portions of all such highways so replaced, or which
45 under Section 65-3-97 are designated to be replaced, by municipal
46 bypasses; and such highways and portions thereof shall be
47 continued to be maintained as a part of the Mississippi state
48 highway system until removed from such system by legislative act.
49 All such highways and portions thereof which, by virtue of the
50 provisions of this section, are returned on or after July 1, 1989,
51 to the jurisdiction of the Mississippi Transportation Commission
52 shall be maintained by the Mississippi Department of
53 Transportation only to the traffic capacities existing at the time
54 that they are returned and any subsequent traffic capacity
55 improvements or other improvements desired by the county or
56 municipality within which such highway or portion thereof is
57 located shall be performed in accordance with highway standards
58 approved by the * * * commission and the expenses for making such
59 improvements shall be paid by the county or municipality; however,
60 all highways and portions thereof so improved by the county or
61 municipality shall thereafter be maintained by the * * *
62 department. Before any highway or portion thereof is returned to
63 the * * * commission under this section, the county or
64 municipality having jurisdiction thereof shall remove or cause to



65 be removed by July 1, 1991, all right-of-way encroachments along
66 the entire length of the highway or portion thereof which are not
67 permitted by * * * commission and * * * department policies and
68 rules and regulations adopted pursuant to state and federal law.
69 Any such encroachments may be allowed to remain only by permits
70 issued by the * * * department in the manner and subject to the
71 same conditions for the issuance of permits for similar
72 encroachments on other highways on the state highway system. If
73 traffic counts indicate that any highway or portions thereof
74 placed under the jurisdiction of the Transportation Commission
75 under the provisions of this section no longer form a substantial
76 part of the state highway system, the * * * commission may request
77 the Legislature to remove such highways or portions thereof from
78 the state highway system and return said roads for maintenance to
79 the county or municipality in which they are located, as provided
80 in subsection (3) of this section. The highways which the * * *
81 department is required to continue to maintain by virtue of the
82 provisions of this section shall be in addition to the total
83 mileage limitation of eight thousand six hundred (8,600) miles
84 provided in Section 65-3-3.

85 (2) Notwithstanding any other provisions of this section to
86 the contrary, those portions of any highway on the designated
87 state highway system that, from and after July 1, 2000, are
88 relocated, replaced or bypassed by the Mississippi Department of
89 Transportation in construction of the four-lane highway program
90 under Section 65-3-97, shall not return to the jurisdiction of the
91 county or municipality where located, but shall remain as part of
92 the designated state highway system and shall be under the
93 jurisdiction of the Mississippi Transportation Commission for
94 construction and maintenance.

95 (3) The Mississippi Transportation Commission shall, no
96 later than October 1, 1981, and October 1 each year thereafter,
97 furnish the Transportation Committee of the House of



98 Representatives and the Highways and Transportation Committee of
99 the Senate a recommendation for deletion of those highways or
100 sections of highways which should be removed from the system.

101 **SECTION 2.** Section 65-1-75, Mississippi Code of 1972, is
102 amended as follows:

103 65-1-75. (1) The Mississippi Transportation Commission is
104 authorized and empowered to have the Transportation Department
105 locate, construct, reconstruct and maintain any designated state
106 highway under its jurisdiction to, through, across or around any
107 municipality in the state, regardless of the width of the street
108 between curbs; and in so locating it is fully empowered to follow
109 the route of the existing street or to depart therefrom, as in its
110 discretion it deems advisable, and to obtain and pay for the
111 necessary rights-of-way, as provided in Section 65-1-47. The
112 municipality in which such construction is to be undertaken is
113 likewise authorized to acquire rights-of-way on any such streets
114 or on any newly located routes, either by purchase, gift or
115 condemnation. Such rights-of-way may be acquired by either the
116 municipality or the Transportation Department, subject to the
117 approval of the commission, and the cost thereof may be borne by
118 either or both as may be mutually agreed upon. In any event such
119 municipality may be required to save the commission and department
120 harmless from any claims for damages arising from the construction
121 of the highway through such municipality, including claims for
122 rights-of-way, change of grade line, interference with public
123 structures, and any and all damages so arising. Municipalities
124 may secure additional improvements by payment of the additional
125 cost of same. The commission may require such municipality to
126 cause to be laid all water, sewer, gas or other pipelines or
127 conduits, together with all necessary house or lot connections or
128 services, to the curb line of such road or street to be
129 constructed, and the commission is authorized to refuse to have
130 the department lay such pipelines or conduits beneath such roads



131 or streets until the municipality has laid same or entered into an
132 agreement to reimburse the commission or department for the
133 expense thereby incurred.

134 (2) All construction of state highways in or through
135 municipalities, where done at the cost and expense of the state,
136 whether heretofore or hereafter, shall be maintained in the same
137 manner and to the same extent as is construction on state highways
138 outside the limits of municipalities to the end that investment of
139 the state in such highway so constructed may be preserved and
140 maintained; and all reasonable rules and regulations with
141 reference to the preservation and maintenance of such highways
142 constructed at state expense, whether within or without municipal
143 limits, may be promulgated by the commission, except that it shall
144 have no power to promulgate police regulations contrary to
145 existing law. On any municipal streets or parts or sections
146 thereof taken over for regular maintenance and maintained by the
147 department as a part of the state highway system, the municipality
148 shall not be liable for negligence occasioned by the maintenance
149 or repair of such streets thus apportioned to and of such width as
150 is maintained by the department. The municipality shall have full
151 control and responsibility beyond the curb lines of any designated
152 highway or street, whether heretofore or hereafter so designated,
153 (except the interstate system) located within its present or
154 future expanded municipal corporate limits, regardless of the
155 ownership of the right-of-way, including but not limited to, the
156 construction and maintenance of sidewalks, grass mowing and
157 drainage systems; however, the department may utilize the
158 right-of-way purchased by the commission without any additional
159 cost or permission.

160 The municipality shall not allow any encroachments, signs or
161 billboards to be erected or to remain on state-owned rights-of-way
162 on any designated highway within its corporate limits without the
163 consent of the commission. The municipality, at its own expense,



164 shall provide street illumination and shall clean all streets,
165 including storm sewer inlets and catch basins. The commission may
166 enter into an agreement with the municipality or with a private
167 entity to sweep and clean the designated highways within or
168 without the corporate limits. The commission may, at state
169 expense, provide illumination and may clean all interstate
170 highways within the corporate limits of any municipality. The
171 right of the municipality to grant franchises over, beneath and
172 upon such streets is specifically retained, but the municipality
173 shall require every grantee of a franchise to restore, repair and
174 replace to its original condition any portion of any such street
175 damaged or injured by it; however, permission to open the surface
176 of any municipal street maintained by the department must be
177 obtained from both the commission and the municipality concerned
178 before any such opening is made. Each municipality shall retain
179 full police power over its streets, particularly as to regulating
180 and enforcing traffic and parking restrictions on such streets,
181 but any traffic control and parking regulations repugnant to state
182 law shall be null and void. The commission shall have the
183 department erect, control and maintain all highway route markers
184 and directional signs on such streets at state expense. The
185 commission, at state expense, shall have the department install,
186 operate, maintain, control, and have full jurisdiction over, all
187 traffic control devices, including, but not limited to, signals,
188 signs, striping and lane markings on state highway streets in
189 municipalities having a population of twenty thousand (20,000) or
190 less according to the current U.S. census; but municipalities over
191 twenty thousand (20,000) population according to such census shall
192 install, operate, maintain and control such devices at their own
193 expense, subject to approval of the executive director regarding
194 operations, method of installation and type only. Municipalities
195 having a population of five thousand (5,000) or more but less than
196 twenty thousand (20,000) according to the most recent federal



197 census shall only be responsible for electrical operating costs;
198 and all other costs for the installation, operation and
199 maintenance of traffic control devices, including the changing of
200 signal bulbs in traffic signal lights, shall be the responsibility
201 of the Transportation Department. The commission may purchase at
202 state expense and install traffic control devices in
203 municipalities over twenty thousand (20,000) population and donate
204 them to the municipalities for operation and maintenance whenever
205 it appears to the commission that, in the interest of safety or
206 convenience of the motoring public, any of the devices should be
207 upgraded, replaced or removed. Any revenue from parking meters on
208 any such streets shall be controlled by and belong to the
209 municipality.

210 (3) The maintenance of all streets within the limits of any
211 municipality in this state, regardless of size, which are
212 presently being regularly maintained, in whole or in part, by the
213 department at state expense as a part or parts of any designated
214 state highway shall be continued. Whenever any state highway runs
215 into or through the corporate limits of any municipality, the
216 municipal street or the street utilized and marked as a part of
217 any such state highway may be a part of the state highway system
218 and may be maintained by the department; however, such route
219 through any municipality shall be selected by the commission by
220 orders spread on its minutes describing all such routes, and such
221 route or routes may be changed, relocated or abandoned by the
222 commission from time to time, all under the provisions, terms and
223 conditions herein provided, but the commission shall have the
224 department maintain only one (1) route of any highway through a
225 municipality. Upon relocation of such state highway or
226 abandonment thereof, the municipal street formerly used as a state
227 highway shall thereby return to the jurisdiction of, and
228 maintenance by, the municipality.



229 (4) Notwithstanding any other provisions of this section to
230 the contrary, those portions of any highway on the designated
231 state highway system that, from and after July 1, 2000, are
232 relocated, replaced or bypassed by the Mississippi Department of
233 Transportation in construction of the four-lane highway program
234 under Section 65-3-97, shall not return to the jurisdiction of the
235 municipality where located, but shall remain as part of the
236 designated state highway system and shall be under the
237 jurisdiction of the Mississippi Transportation Commission for
238 construction and maintenance.

239 **SECTION 3.** This act shall take effect and be in force from
240 and after its passage.

